

EXHIBIT 21

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

	X	
	:	
In Re: AUTOMOTIVE PARTS	:	
ANTITRUST LITIGATION	:	
	:	
ALL PARTS	:	Case No.: 12-MD-02311
	:	Honorable Marianne O. Battani
	:	Special Master Gene Esshaki
THIS RELATES TO: ALL CASES	:	
	:	
	:	
	:	

**DECLARATION OF KENNETH P. SCHAEFFER, JR. IN SUPPORT OF
BMW OF NORTH AMERICA, LLC's OPPOSITION TO MOTION TO COMPEL**

I, Kenneth P. Schaeffer, Jr., hereby declare under penalty of perjury as follows:

1. I am employed as the Department Manager Automotive Sales of BMW of North America, LLC ("BMW NA"). I have been employed by BMW NA since 1996. I make this declaration based upon personal knowledge and a review of business records and information concerning BMW NA.

I. BMW NA's Limited Operations

2. BMW NA's primary business operations are limited to the purchase and distribution of BMW and MINI vehicles, and the marketing of those vehicles in the United States.

3. BMW NA purchases fully-assembled BMW and MINI vehicles for distribution in the United States. BMW NA purchases those fully-assembled vehicles from Bayerische

Motoren Werke Aktiengesellschaft (“BMW AG”), a corporation organized under the laws of Germany with its principal place of business in Munich, Germany.¹

4. All of the MINI vehicles BMW NA purchases are manufactured outside the United States. A majority of the BMW vehicles BMW NA purchases are manufactured outside the United States.

5. BMW NA purchases the BMW and MINI vehicles from BMW AG at prices determined by BMW AG. BMW NA does not receive or maintain information concerning BMW AG’s costs to manufacture the vehicles, including the amount paid by BMW AG or others for components or assemblies that are used to manufacture BMW or MINI vehicles.

6. Given its distribution and marketing role, BMW NA does not purchase components or assemblies for initial installation in the vehicles that it distributes, has no role in the selection of suppliers of those components and assemblies, does not negotiate or enter into agreements with suppliers of those components or assemblies, and has no records concerning the procurement or cost of such components or assemblies.

7. BMW NA also does not engage in the design, manufacture or assembly of BMW or MINI vehicles, the sale of BMW or MINI vehicles to consumers, or the financing of BMW or MINI vehicles for consumers.

8. As noted, when BMW NA purchases vehicles from BMW AG, BMW NA does not receive information concerning the procurement or costs of components and assemblies installed in those vehicles. To the extent that BMW AG may factor the pricing of components and assemblies into prices charged to BMW NA for BMW or MINI vehicles, BMW NA does not receive information about that decision.

¹ BMW NA began distributing MINI vehicles in 2002.

9. After purchase from BMW AG, BMW NA sells the new vehicles to authorized BMW centers and MINI dealers in the United States for retail sale or lease in the United States.

10. In determining the prices at which it sells vehicles to authorized BMW centers and MINI dealers, BMW NA does not consider the costs of components and assemblies, nor could it, because BMW NA does not have information concerning the costs of components and assemblies.

11. The purchase and financing of BMW or MINI vehicles to consumers are matters that are addressed between a BMW center or MINI dealer and consumers without involvement by BMW NA.

12. In the ordinary course of business, BMW NA only obtains limited identification information on the purchasing consumer from the authorized dealer, principally for communications purposes such as product campaigns and recalls.

13. In the ordinary course of business, BMW NA does not obtain information on the sale or lease price, or the terms and conditions of sale or lease, to the purchasing consumer. Dealers are not required to report, and typically do not report, the terms and conditions of individual retail transactions, such as pricing, pricing decisions, and terms and conditions of sale. That type of information, except for the prospect of limited and incidental exceptions, would not be found in the possession, custody, or control of BMW NA.

II. BMW NA's Limited United States Sales

14. BMW NA's vehicle sales have always been a small percentage of the U.S. vehicle market. The following charts identify BMW NA's U.S. sales of BMW and MINI vehicles, and their respective U.S. light weight vehicle market share. BMW sales are identified for the entire putative class period, and MINI sales are identified starting in 2002, the first year BMW NA

distributed MINI vehicles. The BMW NA sales data is based on a review of BMW NA business records and its public releases concerning its total U.S. vehicles sales. The total U.S. light weight vehicle sales data is publicly available from the U.S. Federal Reserve.²

BMW SALES			
Year	U.S. Light Weight Vehicle Sales (Federal Reserve Data)	Total BMW Sales by BMW NA	BMW Sales: Share of U.S. Light Weight Vehicle Sales
1992	12,857,300	65,691	0.5109%
1993	13,882,700	78,010	0.5619%
1994	15,044,900	84,501	0.5617%
1995	14,728,400	93,309	0.6335%
1996	15,097,100	105,761	0.7005%
1997	15,121,900	122,467	0.8099%
1998	15,543,000	131,559	0.8464%
1999	16,893,700	154,970	0.9173%
2000	17,349,700	189,423	1.0918%
2001	17,122,400	213,127	1.2447%
2002	16,816,200	232,032	1.3798%
2003	16,639,100	240,859	1.4475%
2004	16,866,700	260,079	1.5420%
2005	16,948,300	266,200	1.5707%
2006	16,503,900	274,432	1.6628%
2007	16,088,900	293,795	1.8261%
2008	13,194,900	249,113	1.8879%
2009	10,402,200	196,502	1.8890%
2010	11,554,800	220,113	1.9049%
2011	12,734,900	247,907	1.9467%
2012	14,442,500	281,460	1.9488%
2013	15,531,800	309,280	1.9913%
2014	16,435,100	339,738	2.0671%
2015	17,386,300	346,023	1.9902%

² See Light Weight Vehicle Sales (not seasonally adjusted), Federal Reserve of St. Louis Economic Data, <https://research.stlouisfed.org/fred2/release?rid=93>.

MINI SALES			
Year	U.S. Light Weight Vehicle Sales (Federal Reserve Data)	Total MINI Sales by BMW NA	MINI Sales: Share of U.S. Light Weight Vehicle Sales
2002	16,816,200	24,590	0.1462%
2003	16,639,100	36,010	0.2164%
2004	16,866,700	36,032	0.2136%
2005	16,948,300	40,820	0.2409%
2006	16,503,900	39,171	0.2373%
2007	16,088,900	42,045	0.2613%
2008	13,194,900	54,077	0.4098%
2009	10,402,200	45,225	0.4348%
2010	11,554,800	45,644	0.3950%
2011	12,734,900	57,511	0.4516%
2012	14,442,500	66,123	0.4578%
2013	15,531,800	66,502	0.4282%
2014	16,435,100	56,112	0.3414%
2015	17,386,300	58,514	0.3366%

III. Upstream Purchasing Information

15. I understand that the motions at issue concern, in part, 35 requests (including subparts) relating to upstream purchasing information of the components and assemblies at issue. As set out above, BMW NA does not, in the ordinary course, receive or maintain records concerning the procurement or cost of components or assemblies.

IV. Downstream Purchasing Information

16. I understand that the motions at issue concern, in part, 28 requests relating to the (i) financial performance of BMW NA; (ii) the manufacture, distribution, and sale of vehicles; and (iii) the resale of those vehicles by dealers. I refer to these requests as “downstream” requests.

17. As detailed above, BMW NA only obtains limited identification information on the purchasing consumer from the authorized dealer, and does not obtain information on the sale or lease price, or the terms and conditions of sale or lease, to the purchasing consumer.

18. BMW NA does not consider the cost of components and assemblies when setting prices. Absent this information, any downstream information BMW NA might have would not enable the tracking of a purported overcharge on a component—purchased and paid for by another entity—through the distribution process to a dealer network or the end-user customer.

19. Moreover, the burden of searching for and producing downstream information that BMW NA might have in its possession is immense. Such a search would require reviewing data in multiple electronic databases, searching electronically archived records, and searching extensive hardcopy record collections, many of which, to the extent that they still exist, are in off-site storage and exceedingly difficult to locate and collect. The documents, records and data that are sought are not maintained in a format that aligns with the requests and none of the documents, records or data, including those for more recent years, are maintained in a fashion that I consider readily accessible. I anticipate that the effort to simply locate and collect the documents, records and data that are sought for the time period at issue would take tens of thousands of employee hours, and would substantially interfere with BMW NA's business duties and operations.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief this 18th day of February, 2016.


Kenneth P. Schaeffer, Jr.